

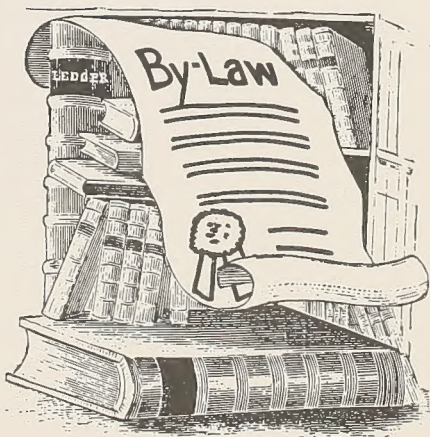
MUNICIPAL BY-LAWS 1

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Appointment By-Laws



Ontario

Ministry of
Municipal Affairs

Bernard Grandmaitre
Minister

Glenn R. Thompson
Deputy Minister

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Appointment By-Laws



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Deputy Minister

October 1985

MODEL BY-LAWS

Every municipality is required, under the Municipal Act, to pass by-laws appointing the Clerk, the Treasurer and the Collector. The model by-laws in this publication are offered as a guide to municipalities in preparing their own by-laws.

Consultation with your own legal advisor is recommended to ensure that any of these by-laws passed by your municipality are specifically sensitive to your circumstances and to ensure compliance with the Act.

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GROUP A

SALARY INCLUDED IN BY-LAW

THE CORPORATION OF THE _____

OF _____

BY-LAW NUMBER _____

Being a by-law to appoint

(Person's full name)

to be Clerk from

(effective date of appointment)

WHEREAS section 77 of the *Municipal Act*, R.S.O. 1980, c. 302, requires the Council to appoint a Clerk;

NOW THEREFORE the Council of the Corporation of the

_____ of
(Township, Village, etc. as the case may be)

_____ enacts as follows:

(Name)

1. _____ is hereby appointed Clerk of the Corporation.
(Person's full name)
2. In addition to the duties required to be performed under any statute, _____ shall
(Person's full name)
perform such other duties as may, from time to time, be assigned to the Clerk by by-law of the Council.
3. The Clerk shall be paid a salary of _____ dollars for the year 19 _____ and thereafter until
such time as a new salary is established.
4. The salary payable to the Clerk under section 3 shall be payment in full for all services required of
_____ and all fees or emoluments of any kind payable to the Clerk of the Corporation
(Person's full name)
by virtue of any Act or Regulation shall be paid to the Corporation and be credited to the general funds of the Corporation.
5. By-law Number _____, being a by-law to _____
is hereby repealed.
6. This By-law shall take effect on _____
(date).

Read a first and second time this _____ day of _____, 19 _____.

Read a third time and passed this _____ day of _____, 19 _____.

Head of Council

SEAL of the Municipal
Corporation

Clerk

THE CORPORATION OF THE _____

OF _____

BY-LAW NUMBER _____

Being a by-law to appoint

(Person's full name)

to be Treasurer from

(effective date of appointment)

WHEREAS section 79 of the *Municipal Act*, R.S.O. 1980, c. 302, requires the Council to appoint a Treasurer;

AND WHEREAS pursuant to section 94 of the said Act, the Treasurer shall give such security as the Council directs for the performance of duties;

NOW THEREFORE the Council of the Corporation of the

_____ of
(Township, Village, etc. as the case may be)

_____ enacts as follows:

(Name)

1. _____ is hereby appointed Treasurer of the Corporation.
(Person's full name)

2. In addition to the duties required to be performed under any statute, _____ shall
(Person's full name)
perform such other duties as may, from time to time, be assigned to the Treasurer by by-law of the Council.

3. The Treasurer shall be paid a salary of _____ dollars for the year 19 _____ and thereafter
until such time as a new salary is established.

4. The salary payable to the Treasurer under section 3 shall be payment in full for all services required of
_____ and all fees or emoluments of any kind payable to the Treasurer of the
(Person's full name)
Corporation by virtue of any Act or Regulation shall be paid to the Corporation and be credited to the general funds of the Corporation.

5. _____, before entering on the duties of the office of Treasurer shall be bonded in the
(Person's full name)
amount of at least _____ dollars for the faithful performance of such duties and for
duly accounting for and paying over all money that comes into his/her hands.

6. By-law Number _____, being a by-law to _____
is hereby repealed.

7. This By-law shall take effect on _____
(date).

Read a first and second time this _____ day of _____, 19 _____.

Read a third time and passed this _____ day of _____, 19 _____.

Head of Council

SEAL of the Municipal
Corporation

Clerk

THE CORPORATION OF THE _____

OF _____

BY-LAW NUMBER _____

Being a by-law to appoint

(Person's full name)

to be Collector from

(effective date of appointment)

WHEREAS section 87 of the *Municipal Act*, R.S.O. 1980, c. 302, requires the Council to appoint a Collector;

AND WHEREAS pursuant to section 94 of the said Act, the Collector shall give such security as the Council directs for the performance of duties;

NOW THEREFORE the Council of the Corporation of the _____

_____ of
(Township, Village, etc. as the case may be)

_____ enacts as follows:

(Name)

1. _____ is hereby appointed Collector of the Corporation.

(Person's full name)

2. In addition to the duties required to be performed under any statute, _____ shall

(Person's full name)

perform such other duties as may, from time to time, be assigned to the Collector by by-law of the Council.

3. _____ shall perform such duties throughout the entire _____

(Person's full name)

(Township, Village, etc. as the case may be)

of _____ (Name)

(Note: If this person is appointed to be Collector of only part of the municipality, describe that part.)

4. The Collector shall be paid a salary of _____ dollars for the year 19 _____ and thereafter until such time as a new salary is established.

5. The salary payable to the Collector under section 4 shall be payment in full for all services required of

_____ as Collector of the Corporation and all fees or emoluments of any kind payable
(Person's full name)
to the Collector of the Corporation by virtue of any Act or Regulation shall be paid to the Corporation and be credited to the general funds of the Corporation.

6. _____, before entering on the duties of the office of Collector shall be bonded in the

(Person's full name)

amount of at least _____ dollars for the faithful performance of such duties and for duly accounting for and paying over all money that comes into his/her hands.

7. By-law Number _____, being a by-law to _____
is hereby repealed.

8. This By-law shall take effect on _____

(date).

Read a first and second time this _____ day of _____, 19 _____.

Read a third time and passed this _____ day of _____, 19 _____.

Head of Council

SEAL of the Municipal
Corporation

Clerk

THE CORPORATION OF THE _____

OF _____

BY-LAW NUMBER _____

Being a by-law to appoint

(Person's full name)

To be Clerk, Treasurer and Collector from

(effective date of appointment)

WHEREAS sections 77, 79 and 87 of the *Municipal Act*, R.S.O. 1980, c. 302, require the Council to appoint a Clerk, a Treasurer and a Collector;

AND WHEREAS pursuant to section 94 of the said Act, the Treasurer and the Collector shall give such security as the Council directs for the performance of duties;

NOW THEREFORE the Council of the Corporation of the _____

(Township, Village, etc. as the case may be) of _____

enacts as follows:

(Name)

1. _____ is hereby appointed Clerk, Treasurer and Collector of the Corporation.

(Person's full name)

2. In addition to the duties required to be performed under any statute, _____ shall

(Person's full name)

perform such other duties as may, from time to time, be assigned to the Clerk, or to the Treasurer or to the Collector by by-law of the Council.

3. _____ shall perform the duties of Collector throughout the entire

(Person's full name)

of _____

(Township, Village, etc. as the case may be)

(Name)

4. _____ shall be paid a salary of _____ dollars for the year 19 _____

(Person's full name)

and thereafter until such time as a new salary is established.

5. The salary payable to _____ under section 4 shall be payment in full for all services

(Person's full name)

and duties performed as Clerk, as Treasurer and as Collector and all fees or emoluments of any kind payable to the Clerk, the Treasurer or the Collector by virtue of any Act or Regulation shall be paid to the Corporation and be credited to the general funds of the Corporation.

6. _____, before entering on the duties of the office of Treasurer and Collector shall

(Person's full name)

be bonded in the amount of at least _____ dollars for the faithful performance of such duties and for duly accounting for and paying over all money that comes into his/her hands.

7. By-law Number _____, being a by-law to _____ is hereby repealed.

8. This By-law shall take effect on _____

(date).

Read a first and second time this _____ day of _____, 19 _____.

Read a third time and passed this _____ day of _____, 19 _____.

Head of Council

SEAL of the Municipal
Corporation

Clerk

GROUP B
SEPARATE SALARY BY-LAW

THE CORPORATION OF THE _____

OF _____

BY-LAW NUMBER _____

Being a by-law to appoint

(Person's full name)

to be Clerk from

(effective date of appointment)

WHEREAS section 77 of the *Municipal Act*, R S O 1980, c 302 requires the Council to appoint a Clerk

NOW THEREFORE the Council of the Corporation of the

_____ of
(Township, Village, etc as the case may be)

_____ enacts as follows
(Name)

1. _____ is hereby appointed Clerk of the Corporation.
(Person's full name)
2. In addition to the duties required to be performed under any statute, _____ shall
perform such other duties as may, from time to time, be assigned to the Clerk by by-law of the Council
(Person's full name)
3. The salary payable to the Clerk under By-law Number _____ shall be payment in full for all services required of
_____ as Clerk of the Corporation, and all fees or emoluments of any kind payable to
(Person's full name)
the Clerk of the Corporation by virtue of any Act or Regulation shall be paid to the Corporation and be credited to the
general funds of the Corporation.
4. By-law Number _____, being a by-law to
is hereby repealed
5. This By-law shall take effect on _____
(date)

Read a first and second time this _____ day of _____, 19 _____

Read a third time and passed this _____ day of _____, 19 _____

Head of Council

SEAL of the Municipal
Corporation

Clerk

THE CORPORATION OF THE

OF _____

BY-LAW NUMBER _____

Being a by-law to appoint

(Person's full name)

to be Treasurer from _____

(effective date of appointment)

WHEREAS section 79 of the *Municipal Act*, R.S.O. 1980 c. 302 requires the Council to appoint a Treasurer

AND WHEREAS pursuant to section 94 of the said Act the Treasurer shall give such security as the Council directs for the performance of duties,

NOW THEREFORE the Council of the Corporation of the

_____, of _____
(Township, Village, etc. as the case may be)

enacts as follows:

(Name)

1. _____ is hereby appointed Treasurer of the Corporation
(Person's full name)

2. In addition to the duties required to be performed under any statute, _____ shall
(Person's full name)
perform such other duties as may from time to time be assigned to the Treasurer by by-law of the Council

3. The salary payable to the Treasurer under By-law Number _____ shall be payment in full for a
services required of _____ as Treasurer of the Corporation, and all fees or
(Person's full name)
emoluments of any kind payable to the Treasurer of the Corporation by virtue of any Act or Regulation shall be paid to the Corporation and be credited to the general funds of the Corporation.

4. _____, before entering on the duties of the office of Treasurer shall be bonded in the
(Person's full name)
amount of at least _____ dollars for the faithful performance of such duties and for
duly accounting for and paying over all money that comes into his/her hands

5. By-law Number _____, being a by-law to _____
is hereby repealed.

6. This By-law shall take effect on _____
(date)

Read a first and second time this _____ day of _____, 19____

Read a third time and passed this _____ day of _____, 19____

Head of Council

SEAL of the Municipal
Corporation

Clerk

THE CORPORATION OF THE

OF _____

BY-LAW NUMBER _____

Being a by-law to appoint

(Person's full name)

to be Collector from

(effective date of appointment)

WHEREAS section 87 of the *Municipal Act* R.S.O. 1990 c. 302 requires the Council to appoint a Collector,

AND WHEREAS pursuant to section 94 of the said Act the Council shall give such security as the Council directs for the performance of duties,

NOW THEREFORE the Council of The Corporation of the _____

(Township, Village, etc. as the case may be)

of

enacts as follows

(Name)

1. _____ is hereby appointed Collector of the Corporation
(Person's full name)
2. In addition to the duties required to be performed under any statute, _____ shall
(Person's full name)
perform such other duties as may from time to time be assigned to the Collector by by-law of the Council
3. _____ shall perform such duties throughout the entire
(Person's full name) _____
of _____ (Name) _____ (Township, Village, etc. as the case may be)
(Note: If this person is appointed to be Collector of only part of the municipality describe that part.)
4. The salary payable to the Collector under By-law number _____ shall be payment in full for all
services required of _____ as Collector of the Corporation, and all fees or
(Person's full name)
emoluments of any kind payable to the Collector of the Corporation by virtue of any Act or Regulation shall be paid to the Corporation and be credited to the general funds of the Corporation
5. _____, before entering on the duties of the office of Collector shall be bonded in the
(Person's full name)
amount of at least _____ dollars for the faithful performance of such duties and for
duly accounting for and paying over all money that comes into his/her hands.
6. By-law Number _____, being a by-law to _____
is hereby repealed.
7. This By-law shall take effect on _____
(date)

Read a first and second time this _____ day of _____, 19 _____

Read a third time and passed this _____ day of _____, 19 _____

Head of Council _____

SEAL of the Municipal
Corporation

Clerk _____

THE CORPORATION OF THE _____

OF _____

BY-LAW NUMBER _____

Being a by-law to fix the

remuneration of officers of

the Corporation from

_____ (effective date of coverage)

WHEREAS pursuant to section 98 of the *Municipal Act* R S O 1980, c. 302 the Council shall fix the remuneration of officers of the Corporation,

NOW THEREFORE the Council of The Corporation of the

_____ of
(Township, Village, etc. as the case may be)

enacts as follows

(Name)

1. The Clerk shall be paid a salary of _____ dollars for the year 19 _____ and thereafter until such time as a new salary is established.
2. The Treasurer shall be paid a salary of _____ dollars for the year 19 _____ and thereafter until such time as a new salary is established.
3. The Collector shall be paid a salary of _____ dollars for the year 19 _____ and thereafter until such time as a new salary is established.
4. By-law Number _____, being a by-law to _____ is hereby repealed.
5. This By-law shall take effect on _____ (date)

Read a first and second time this _____ day of _____, 19 _____

Read a third time and passed this _____ day of _____, 19 _____

Head of Council

SEAL of the Municipal
Corporation

Clerk

EXPLANATORY NOTES

EXPLANATORY NOTES

STATUTORY APPOINTMENT AND SALARY BY-LAWS

NAME OF MUNICIPALITY

A municipality is a legally-created corporation. Any action it takes, to be legal, must be taken in the name of the Corporation. Therefore any by-law it passes should identify the *precise* name of the municipality in the form shown in the heading of this by-law.

BY-LAW NUMBER

This number identifies the by-law. The number could take one of several forms. The three most common are sequentially (e.g. 1, 2, 3, etc.), sequentially by year (e.g. 84-1, 84-2, or 1/84, 2/84) or sequentially and dated (e.g. 4/84, 5/84, 6/84, 7/84). The preferred alternative is sequentially and dated. This method enables the municipality to find a particular by-law quickly, to file it in a manner that facilitates its use, and to identify the last by-law of a particular year (e.g. if by-law 5/84 is the last by-law passed in 1984, then the first by-law in 1985 will be 6/85).

THE PRECIS OR SHORT TITLE SECTION

This section summarizes the intent of the by-law and its contents. While it has no legal effect, the precis should follow closely the wording used in the act under which the by-law is passed.

AUTHORITY SECTION

This section is important because all of the contents of every by-law passed by a municipality *must* be authorized by legislation passed by the Legislature of Ontario. If a by-law is found to be outside of the powers given to the municipality, it would be invalid. Identifying the enabling legislation at the outset establishes the legal authority for the by-law.

THE OPERATIVE SECTIONS

The operative sections are the essence of the by-law; they relate the reasons for the by-law. There can be as many operative sections as the municipality feels are necessary to effect the desired action. To ensure clarity, each section should describe only one action. One operative section should repeal, by reference to the appropriate numbers, all previous by-laws on the same subject that are no longer necessary. This will ensure that, at any time, only one by-law is in effect on that one subject.

EFFECTIVE DATE SECTION

This section specifies the date that the by-law will have effect. This section is important because a municipality may want the by-law to take effect on a date other than the date that it receives third reading. For example, an appointed officer may not assume office on the same day the by-law is passed. It is necessary to note this in the by-law.

READINGS

There is no legislative requirement to read by-laws more than once, but the general practice has been to read them three times. The first and second readings usually take place at the same time. The third reading may take place at the same time as the other two readings or at a different time. If the by-law is straightforward, then the third reading usually takes place at the same time as the other two. If the by-law is controversial, it may be read the third time at a subsequent meeting of council.

SIGNATURES

For the by-law to take effect, it must be signed by the Head of Council and the Clerk. This is stipulated by statute (Subsection 129(1) of the *Municipal Act*.)

SEAL OF THE MUNICIPALITY

Subsection 129(1) of the *Municipal Act* provides that every by-law must be sealed with the seal of the municipal corporation. Every municipality should have a seal bearing its legal name and should use it on all documents approved by Council, including by-laws.

DECLARATION OF OFFICE

People being appointed to certain offices (identified in Subsection 96(2) of the *Municipal Act*) *must* make the Declaration of Office on the specific form outlined in the *Municipal Act* (Form 4).

It is good practice to file the completed declaration with the appointment by-law to verify that the declaration of office has indeed been taken by the individual; it should not, however, be part of the by-law. Council cannot alter the declaration.

TENURE OF OFFICE

Generally, all appointed officers hold office during the pleasure of Council by virtue of subsection 99(1) of the *Municipal Act*. However, this is subject to statutory provisions which require, for example, that certain procedures be followed on dismissal (e.g. subsection 99(2) of the *Municipal Act*) of certain officers. There is no need to include a tenure of office provision in the by-law.

SALARY BY-LAW

Subsection 98(1) of the *Municipal Act* requires Council to fix the salary of officers when not fixed by law. It may be desirable to do this in a single salary by-law covering all officers rather than in each appointment by-law. Then, when salaries change, only the salary by-law requires amendment. The appointment by-laws would not require amendment each time the salary of an officer is increased.

ONTARIO
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 MUNICIPAL OPERATIONS DIVISION
MUNICIPAL MANAGEMENT BULLETINS

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Any questions or comments regarding the contents of this publication may be addressed to the Ministry at the above Toronto address and telephone number.



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